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No. 470

In the Supreme Court of the United States

OCTOBER TERM, 1932

UNITED STATES OF AMERICA ET AL., APPELLANTS

v.

NORTHERN PACIFIC RAILWAY COMPANY ET AL.

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MINNESOTA

STATEMENT OF JURISDICTION

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STATEMENT OF JURISDICTION

In compliance with Rule 12 of the Supreme Court of the United States, appellants submit herewith their statement showing the basis of the jurisdiction of that Court to entertain the appeal in the above-entitled cause:

A

STATUTES

The statutory jurisdiction of the Supreme Court to review by direct appeal the decree here complained of is conferred by Urgent Deficiencies Act of October 22, 1913 (c. 32, 38 Stat. 208, 219, 220; U. S. C., Title 28, Sec. 41 (28), Secs. 43 to 47);

145422—32

and Section 238 of the Judicial Code, as amended by Act of February 13, 1925 (c. 229, 43 Stat. 936, 938; U. S. C., Title 28, Sec. 345).

B

DATE OF DECREE AND APPLICATION FOR APPEAL

The final decree sought to be reviewed was entered August 1, 1932. The petition for appeal was presented with this statement, on September 14, 1932, and the order allowing the appeal was entered September 14, 1932.

C

NATURE OF THE CASE

This cause was instituted by petition filed by five railroad companies seeking to enjoin an order issued December 1, 1931, by the Interstate Commerce Commission, in which it prescribed rates for the transportation of petroleum and its products from origin points in the southwestern part of the United States to destinations in North Dakota and northwestern Minnesota in the proceeding entitled "No. 17304, *International Oil Company et al.* v. *Abilene & Southern Railway Company et al.*" The specially constituted District Court of three Judges filed an opinion on July 19, 1932, holding that the Commission abused its discretion in denying a petition of the railroads filed February 3, 1932, for reopening and further hearing on the ground that economic conditions had materially changed since the hearings and the record before the Commission

had closed January 15, 1930, so as to make the record on which the order was based unrepresentative of conditions at the time the order issued, and that consequently the order was void, citing *Atchison, Topeka & Santa Fe Ry. Co.* v. *United States*, 284 U. S. 248.

D

CASES SUSTAINING JURISDICTION

The following decisions are believed to sustain the jurisdiction of this Court:

United States v. *Atlanta, Birmingham & Coast Railroad Company*, 282 U. S. 522.

United States v. *Baltimore & Ohio Railroad Company, et al.*, 284 U. S. 195.

Atchison, Topeka & Santa Fe Railway Company, et al v. *United States, et al.*, 284 U. S. 248.

Claiborne-Annapolis Ferry Company v. *United States*, 285 U. S. 382.

Respectfully submitted.

THOS. D. THACHER,
Solicitor General.

JOHN LORD O'BRIAN,
The Assistant to the Attorney General.

ELMER B. COLLINS,
Special Assistant to the Attorney General.

EDWARD M. REIDY,
Assistant Chief Counsel,
Interstate Commerce Commission.

SEPTEMBER, 1932.

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